

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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**MUSIKANT DEUTSCH, D.M.D., P.C.,  
BARRY MUSIKANT, and CAROLINE F.  
STERN, D.D.S., P.C., individually and on  
behalf of all others similarly situated,**

**Plaintiffs,**

**-against-**

**LEND LEASE CORPORATION LIMITED,  
LEND LEASE (US) CONSTRUCTION  
HOLDINGS INC., LEND LEASE (US)  
CONSTRUCTION INC., LEND LEASE (US),  
CONSTRUCTION LMB INC., CAROLINA  
TRACTOR & EQUIPMENT COMPANY,  
PINNACLE INDUSTRIES II, LLC, and EXTELL  
DEVELOPMENT COMPANY,**

**Defendants.**  
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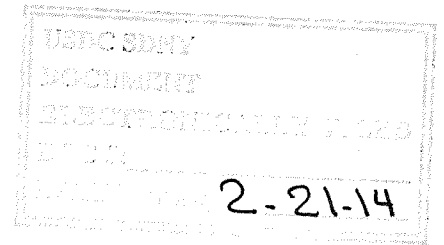
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**12 Civ. 8207 (ALC)(KNF)**

**ORDER**

**ANDREW L. CARTER, JR., District Judge:**

On February 21, 2014, the Court held a status conference in this case. For the reasons set forth on the record, Defendants' Motions to Dismiss are DENIED WITHOUT PREJUDICE.

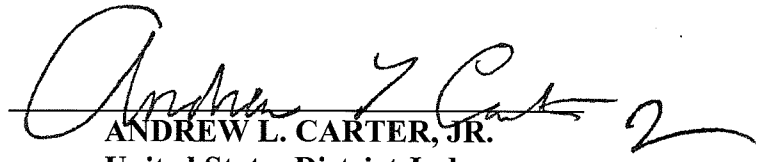
The Clerk of Court is respectfully directed to terminate the Motions at Dkt. Nos. 17 and 22.

As instructed by the Court, the parties shall file letter briefs not to exceed ten (10) pages in accordance with the following schedule: Plaintiffs' letter brief shall be filed by **March 14, 2014** and Defendants' letter brief shall be filed by **April 4, 2014**. The letter briefs should contain citations to authoritative and/or persuasive case law with respect to the following issues: (i) understanding that it is settled in the Second Circuit that CAFA is not jurisdictional, why the Court does not have the authority to raise the exceptions contained therein *sua sponte* and abstain from exercising jurisdiction if one or more of the exceptions are found to apply; (ii) presuming

the Court can raise the CAFA exceptions *sua sponte*, why they should not be applied to this case, and (iii) the impact of the Second Circuit's holdings in *Gold* on this issue.

**SO ORDERED.**

**Dated:** New York, New York  
February 21, 2014

  
ANDREW L. CARTER, JR.  
United States District Judge